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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 02/28/23

SPONSOR McKenna

BILL
NUMBER Senate Bill 375

SHORT TITLE Rent Increases & Air Conditioning

ANALYST Hitzman

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No Fiscal Impact	Indeterminate but minimal	No fiscal Impact	Indeterminate but minimal	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Conflicts with House Bill 6

Sources of Information

LFC Files
 Summit Learning
 New York University’s Furman Center–*Gentrification Response: A survey of strategies to maintain neighborhood economic diversity (2016)*
 Jenkins, Blair. (2009). *Rent Control: Do Economists Agree?* A Journal of the American Institute for Economic Research.

Responses Received From
 Mortgage Finance Authority (MFA)
 Administrative Office of the Courts (AOC)

No Response Received
 Municipal League
 Association of Counties
 Councils of Government
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Senate Bill 375

Senate Bill 375 (SB375) amends Section 47-8-15 NMSA 1978 to require an owner to maintain evaporative cooling in good and safe working order. The bill also specifies an owner shall not attempt to remove or dispossess a resident from a dwelling unit without a court order by interfering with necessary utilities, including air conditioning and evaporative cooling.

The bill adds new material to the Uniform Owner-Resident Relations Act requiring a limit on rent increases in a 12-month period of 5 percent plus any percentage increase in the consumer price index for the previous year or 10 percent, whichever is lower. A resident shall not enter into a sublease that results in a total rent for the premises that exceeds the allowable rental rate. However, these sections do not apply to units with a reduced rent as part of a state, federal, or local subsidy program or rented by the week. The bill provides definitions of “consumer price index” and “resident’s rent,” meaning the monthly rental amount excluding discounts, incentives, concessions, or credits.

In alignment with the above new material, the bill also amends Section 47-8-15 NMSA 1978 to require rent increases be in accordance with the new rent control provisions of the Uniform Owner-Resident Relations Act.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC) notes:

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the increase in actions and petitions filed by residents and appeals from the same. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

Therefore, the cost is scored as indeterminate but minimal, and the bill does not contain an appropriation.

SIGNIFICANT ISSUES

The New Mexico Mortgage Finance Authority (MFA) provides the following:

In New Mexico, 117,613 households are housing cost burdened, which means they pay more than 30 percent of their income on housing costs, and another 100,858 are severely cost burdened, which means they pay more than 50 percent of their income on housing costs. In 2021, rent increased 17.6% nationwide and 19.7% in Albuquerque.

In the majority of New Mexico’s counties, income growth fell well short of what was needed to keep up with rising rents. Except for Lea and San Juan counties, incomes kept up with or outpaced rent increases only in counties where rent growth was modest or declining. The upward shift in prices disproportionately hurts lower income households. Between 2010 and 2019, the supply of rental units affordable to households with incomes of less than \$25,000 a year decreased by over 50 percent— compared to a 9 percent decrease in the number of renters with incomes of less than \$25,000¹.

According to Summit Learning, the benefits of providing rent control include helping tenants

¹ New Mexico Housing Strategy

control their costs in the short run by keeping rent below market rates, ensuring rental costs will not go up unexpectedly (which can help keep people from moving or becoming displaced), and helping guarantee some benefits for low-income residents, like proximity to their job, school, or other necessary services provided in a community. The downsides, however, include a possible decrease in affordability in the long-run, a decline in the property values of the neighborhoods without rent control, and a possible increase in income inequality in a neighborhood when the policy ends due to a high demand for upgraded and more expensive housing. A 2016 survey by New York University's Furman Center² also found rent control can help protect those residents at risk of displacement, but there may be instances in which rent control is benefiting individuals who do not actually need it and could limit the housing supply by discouraging long-term renters to vacate a unit.

Further, a study by the *Journal of the American Institute for Economic Research*, which looked at different economist' viewpoints on rent control, explains:

[First Generation] rent controls prohibit prices from rising above politically-determined levels. Under a price ceiling, fewer housing units are supplied than demanded, resulting in a shortage. While some tenants clearly benefit from the constraints, property owners experience a loss.

Other forms of second generation controls allow rents to increase relative to inflation rates. In one form or another, they allow rental levels to change over time ...[and] second generation controls do not fit the typical model of a price ceiling.

SB375 seems to take the form of a second generation control, allowing for some increases with the consumer price index.

Related to housing availability, the study notes:

The increase in aggregate demand that follows from a reduction in the regulated rent leads to construction of new housing in the less attractive area. (Hackner and Nyberg 2000, 324)

However, in the long run, controls lead “market-determined rent in the less attractive area [to] be lower than the marginal construction cost” reducing the incentive to build. While rent controls might provide a temporary increase in low income housing, over time controls appear to eliminate all incentive to construct in less attractive areas since even market-level rents do not provide a potential profit to new construction there.

However, in regard to homelessness, the journal cites:

[American Housing Survey, 1985-1988:] Our results lend no support to the view that rent control is a major cause of homelessness. If anything, they suggest that it reduces homelessness. Although our estimates indicate that rent control does lead to a lower vacancy rate and higher price per unit of housing service in the uncontrolled sector and they suggest that these lead to more homelessness, they also indicate that these effects of rent control are more than offset by other effects that decrease homelessness. (Early and Olsen 1998, 799-800)

² https://furmancenter.org/files/NYUFurmanCenter_GentrificationResponse_26OCT2016.pdf

Therefore, the overall effects of rent control may depend on the implementation, area, and the populations receiving the benefit. For example, the above study notes:

[Boston, Massachusetts 1985, 1989, 1993, 1998:] Only 26% of rent controlled apartments were occupied by renters in the bottom quartile of the household income distribution, while 30% of units were occupied by tenants in the top half of this distribution. ... This suggests that much of the transferred surplus may have been received by wealthier households. (Sims 2007, 148)

Ultimately, because of these differences in implementation and the resulting differences in effects, it is unknown if the benefits to tenants will outweigh some of the costs to owners and whether these controls will have additional positive or negative effects on things like unit quality and maintenance, housing availability, and other community effects, like homelessness in New Mexico.

AOC provides the following:

- 1) Section 47-8-36(C) NMSA 1978 permits a resident to undertake the following remedies for commission by the owner of any of the acts specified in Subsection A:
 - (1) abate one hundred percent of the rent for each day in which the resident is denied possession of the premises for any portion of the day or each day where the owner caused termination or diminishment of any service for any portion of the day;
 - (2) be entitled to civil penalties as provided in Subsection B of Section [47-8-48](#) NMSA 1978;
 - (3) seek restitution of the premises pursuant to Sections 47-8-41 and Section [47-8-42](#) NMSA 1978 or terminate the rental agreement; and
 - (4) be entitled to damages.

Section 47-8-42 NMSA 1978 provides for the filing of a petition for restitution in the district or magistrate court.

2) SB 375, Section 4, reads

A. Except as provided in Subsection C of this section, an owner of residential real property may not, over the course of a twelve-month period, increase a resident's rent:

- (1) five percent plus any percentage increase in the consumer price index for the previous year; provided that if information on the percentage increase in the consumer price index for the previous year is not available, the percentage increase in the consumer price index for the last year when information is available shall be used; or
- (2) ten percent, if the sum of five percent and the percentage increase in the consumer price index for the previous year is more than ten percent.

It is unclear whether the language is limiting the increase to up to 5% in some circumstances and up to 10% in others, as it appears that the words “more than” may be missing before the semi-colon in Subsection A.

Other states similarly require owners to maintain adequate working air conditioning, such as

Utah.³

PERFORMANCE IMPLICATIONS

AOC notes:

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

Because the bill applies to rental units, there would be no administrative cost to MFA.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill conflicts with House Bill 6 (also amending Section 47-8-15 NMSA 1978).

JH/al/hg

³ https://le.utah.gov/xcode/title57/chapter22/C57-22_1800010118000101.pdf